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Supreme Court, U.S.
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JAMES H. MCKENNEY,
Clerk

12 Orig.

In the Supreme Court of the United States.

OCTOBER TERM, 1902.

EX PARTE IN THE MATTER OF U. S. JOINS, PETITIONER.
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PETITION FOR WRITS OF PROHIBITION AND CERTIORARI TO THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT.

MOTION BY THE SOLICITOR-GENERAL TO CHANGE RETURN DAY OF RULE TO SHOW CAUSE.

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PETITION FOR WRITS OF PROHIBITION AND CERTIORARI TO THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT.

MOTION BY THE SOLICITOR-GENERAL TO CHANGE RETURN DAY OF RULE TO SHOW CAUSE.

As the petition herein shows, this case involves the constitutionality of certain provisions of the act of Congress of July 1, 1902 (32 Stat., 641), establishing, in conformity with an agreement entered into between the Commission to the Five Civilized Tribes and the Choctaw and Chickasaw nations, the Choctaw and Chickasaw citizenship court, and authorizing that court to review the judgments and decrees rendered by the United States courts in the Indian Territory pursuant to the act of June 10, 1896 (29 Stat., 321), allowing or denying the application of certain persons for admission into citizenship in those nations.

The early determination of the question thus presented—if, in view of the limited power of this court to issue writs of prohibition, it may be determined upon this application—is of concern to the Government as well as to the tribes and individuals involved. Preliminary to the allotment of lands in severalty to the members of the Choctaw and Chickasaw nations, as provided by the act of July 1, 1902, is the preparation of the rolls of citizens therein, which, in a large measure, is dependent upon the settlement of this vexed question of citizenship. In a letter urging the importance of an early disposition of this case, the judges of the Choctaw and Chickasaw citizenship court state that there have been instituted in that court two hundred and forty-seven cases, involving the rights of some five or six thousand persons. If, therefore, the hearing of this case is postponed until next October, the allotment proceedings under the recent act of Congress may have to be suspended—a matter not only of inconvenience and expense to the Government, but also of embarrassment to the acknowledged and undisputed members of the tribes.

The Secretary of the Interior, who also desires a speedy settlement of this question, thus writes the Attorney-General:

> The work of making rolls of the citizens of said nations and other work preliminary to the allotment of land in severalty, as prescribed by the acts of June 28, 1898 (30 Stat., 495), and July 1, 1902 (32 Stat., 641), is being vigorously prosecuted and carried toward completion.

The proceeding in question here affects the claims of so large a number of people that it would seem inadvisable, if not unjust, to proceed with work which would be rendered futile by a decision of the Supreme Court upholding the contentions of the petitioner. If this position be correct, then much of the work of this Department must be laid aside until a final determination of the controversy. This will necessarily involve the matter in much confusion and uncertainty, as well as impose upon the Government large additional expense. The importance of this proceeding to the Government and the public generally, as well as to the parties directly interested, would seem to demand a speedy determination thereof, to the end that unnecessary delay in the completion of the rolls of citizenship and division of the lands of these people may be avoided.

For the above reasons, on behalf of the United States and the Choctaw and Chickasaw citizenship court, and with the concurrence of counsel representing the Choctaw and Chickasaw nations, I respectfully move the court to change the return day of the rule to show cause issued herein, so that the case may be heard at the present term.

Notice of this motion has been given to counsel for petitioner.

HENRY M. HOYT,

Solicitor-General.

APRIL 17, 1903.